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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/884,693	06/19/2001	Dulcie Elizabeth Papsco	PAPSCO	4028

7590 09/22/2004

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EXAMINER

OSMAN, RAMY M

ART UNIT	PAPER NUMBER
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2157

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/884,693	Applicant(s) PAPSCO, DULCIE ELIZABETH	
	Examiner Ramy M Osman	Art Unit 2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing-sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Drawings

1. The new formal drawings were received on 2/17/2002. These drawings are accepted.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-20 rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1-20 of U.S. Patent Application No. 09/943,014 ('014). Although the conflicting claims are not identical, they are not patentably distinct from each other.

The only element in the instant application which differs with '014 is where audio signals/files are specified to be a narrative. Whereas in '014, audio signals/files are specified to be musical composition. It is well known in the art that audio signals/files can comprise music, narratives, different types of speech or any other humanly audible sound. Therefore, it would have been obvious for one of ordinary skill in the art to modify '014 to make the audio signals/files incorporate any humanly audible sound which includes narratives and the like.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-8 rejected under 35 U.S.C. 103(a) as being unpatentable over Drosset et al (US Patent No 6,662,231) in view of Brelis et al (US Patent 6,544,040).

6. In reference to claims 1,5,14 and 20, Drosset teaches a selective audio database and system, comprising:

a common carrier, said common carrier adapted to transmit file audio signals from a first location to a second location; means providing access server connected to said common carrier at said first location; a database connected to said server, said data base including said file of audio signals and wherein said file of audio signals sufficient to encode narrative; and means for transmitting said file of audio signals through said common carrier a user disposed at said second location (Abstract, column 1 lines 10-30, column 2 line 35 – column 3 line 35 and column 21 line 54 – column 22 line 30)

Drosset teaches an audio database which contains audio files. It is well known in the art that audio signals/files can comprise music, narratives, different types of speech or any other humanly audible sound. Drosset doesn't explicitly teach wherein the audio database is a narrative database. However, Brelis teaches presenting an audio narrative via a server for storytelling purposes (column 1 lines 10-20, column 3 lines 35-50 and column 4 lines 20-55).

It would have been obvious for one of ordinary skill in the art to modify Drosset by making the database of audio files into a database of narrative audio files as per the teachings of Breilis for storytelling purposes.

7. In reference to claims 2 and 3, Drosset teaches the selective narrative data base and system of claim wherein said common carrier inherently includes a telephone line and in Internet. (column 2 line 35 – column 3 line 35)

8. In reference to claims 4 and 7, Drosset the selective narrative data base and system claim 1 wherein said data base includes a plurality of said files, each of said plurality of files including a compilation of audio signals sufficient to encode a different narrative. (column 1 lines 10-30, column 2 line 35 – column 3 line 35, column 21 line 54 – column 22 line 30 and column 4 lines 30-65)

9. In reference to claim 6, Drosset teaches the selective narrative data base and system claim 1 wherein said means transmitting said file of audio signals through said common carrier a user disposed said second location includes means for providing said user with said file in real-time. (Abstract, column 1 lines 10-30)

10. In reference to claim 8, Drosset teaches the selective narrative data base and system of claim 1 including means subscribing wherein authorization to obtain is denied said user until said user has complied with means for subscribing. (column 3 lines 45-67)

11. Claims 9 and 10 rejected under 35 U.S.C. 103(a) as being unpatentable over Drosset et al (US Patent No 6,662,231) in view of Breilis et al (US Patent 6,544,040) in further view of Schiller et al. (US Patent No 6,442,573).

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12. In reference to claims 9 and 10, Drosset teaches the selective narrative data base and system of claim 8, which includes user subscriptions. It is well known in the art that subscription periods can be based on various time periods. Drosset fails to explicitly teach wherein said means of subscribing includes a monthly subscription and includes a subscription interval that is other than monthly. However, Schiller teaches providing files to subscribers based on daily, weekly or monthly subscriptions. (Summary and column 22 lines 55-67)

It would have been obvious for one of ordinary skill in the art to modify Drosset by making the subscription periods either weekly or monthly as per the teachings of Schiller so that users can have limited access based on their subscription.

13. Claims 11-13 rejected under 35 U.S.C. 103(a) as being unpatentable over Drosset et al (US Patent No 6,662,231) in view of Brelis et al (US Patent 6,544,040) in further view of Peterson et al. (US Patent No 5,825,876).

14. Drosset teaches the selective narrative data base and system of claim 8, which includes user subscriptions. Various forms of payment options are well-known in the art. Drosset fails to explicitly teach wherein said means for subscribing includes paying each access to said system; includes means for paying the amount time said access to said system is provided; and includes providing access via a telephone number that includes a charge that is made for each unit of elapsed time and wherein the elapsed time accrues whenever said user is connected to said server. However, Peterson teaches pay-per-access, pay-per-time and pay-per-elapsed-time. (Abstract and Summary)

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It would have been obvious for one of ordinary skill in the art to modify Drosset by making the subscription payment options include pay-per-access, pay-per-time and pay-per-elapsed-time as per the teachings of Peterson so that users can select their subscription based on their needs.

15. Claims 15-19 rejected under 35 U.S.C. 103(a) as being unpatentable over Drosset et al (US Patent No 6,662,231) in view of Brelis et al (US Patent 6,544,040) in further view of Peterson et al. (US Patent No 5,825,876).

Drosset teaches the selective narrative data base and system of claim 14 above, wherein a computer receives the audio files. Drosset fails to explicitly teach wherein said means for receiving includes a transceiver; wherein said transceiver is adapted to transmit said audio signals to a third location; wherein said third location includes means for receiving said transmitted file of audio signals transceiver and including means for converting said transmitted into a format adapted for listening to said narrative; wherein said third location disposed figurine; and wherein said figurine includes a stuffed figurine. However, Gabai teaches wherein the computer includes a transceiver, transmits audio to a third location, converting audio to a format for listening, and wherein the third location is a stuffed figurine. (Abstract, Summary, column 2 lines 1-35, column 12 lines 1-30, column 13 lines 10-30 and column 14 lines 14-37).

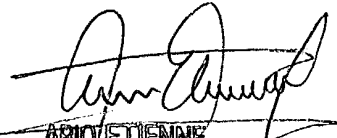
It would have been obvious for one of ordinary skill in the art to modify Drosset to wherein the computer includes a transceiver, transmits audio to a third location, converting audio to a format for listening, and wherein the third location is a stuffed figurine as per the teachings of Gabai so that a talking toy can receive audio files from a computer.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramy M Osman whose telephone number is (703) 305-8050. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (703) 308-7562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RMO
September 17, 2004


ARIO ETIENNE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2157